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Introduction to studying the Founding (1990)

About a decade ago, Robert Goldwin and Walter Berns persuaded a group of us to discuss the proper way to celebrate the approaching bicentennial of the Constitution of the United States. We were, perhaps, not a typical group, but all of us agreed that the only way for us was to *think* about the Constitution.

Aside from the fact that this should be the response of serious men and women to serious things, the Constitution, of all public documents, invites rational discourse. It was written by a group of wise statesmen who believed in the necessity, goodness, and power of reason in the establishment of just regimes. Their task was to establish the framework within which the natural rights announced in the *Declaration of Independence* would be protected. Moreover, in the debates of the Constitutional Convention and in *The Federalist*, they gave their detailed reasons for their doings. Their authority was founded not on tradition or revelation but on nature grasped by reason. This was a new beginning, a liberation from prejudice, legitimized by reference to principles of justice assented to by man's most distinctive and most common faculty and persuasive to a candid world. The Framers were not prophets, poets, or heroes in the old sense but were, rather, reasonable men. Other men were not required to believe what they heard from the Framers but had merely to look at what they pointed to and judge for themselves. Convinced that they had the best of any discussion about the good regime, the Framers, as it were,

challenged the world to meet them on the field of reason. To test their conviction is to honor them.

This is the peculiarly American form of patriotism. With us it is not, at least not essentially, the instinctive and unquestioning love of our own—the burning passion that consumes all doubts, that sacrifices reason to dedication to the community. The genius of this country—which cannot and does not wish to treat its citizens like plants rooted in its soil—has consisted in a citizenship that permits reflection on one’s own interest and a calm recognition that it is satisfied by this regime. And this reflection does not end in mere mean-spirited calculation, as is often alleged by critics from the Right and the Left, but leads to the peaks of philosophy. Our regime is founded on arguments, not commands. Obedience to its fundamental law is not against reason, and it can claim to have resolved what was thought to be the un-resolvable tension between good citizenship and philosophizing.

In sum, in America thoughtful citizenship is good citizenship. All of us involved in this project know ourselves to be modern men and women, which means that our education did not at first lead us toward the Constitution and the philosophic position underlying it. When we were young, we were taught, and were attracted by, thought that was in the air: Marx, Freud, Weber, and Nietzsche were "where it was at". And historicism was already effective enough to make us think that earlier thought could not be truer than later thought, that 18th Century opinions could not help us to answer 20th Century questions. Like most people in this case, we remained attached to liberal democracy and the institutional structure given to it by the Constitution without asking whether a Marxist, an existentialist or, for that matter, a utilitarian can do so consistently. Can any “state” be anything other than an instrument of class domination? Can irrational man also be the democratic voter? Is contempt for natural rights consistent with democratic justice?

These are obvious and necessary questions, but they arise only to those who seek for comprehensiveness and coherence, as did the Framers. That the Framers were such men is something most of us learned later, as graduate

students, when we came to see that they had reasoned arguments that are defensible, if not true *a priori*. It required a certain de-ideologization to meet them afresh and listen to them without condescending from the heights of the 20th century. The Framers had a keen sense of the relation between theory and practice; and their political founding was grounded in teachings about nature and the relation of justice to it. Their Bacon, Locke, and Montesquieu are worthy interlocutors—on the level of Kant, Hegel, Marx and Nietzsche, who inspired less impressive political achievements. The Framers held that the rational conviction of the truth of the principle of natural right was essential for fighting the American Revolution, for establishing a constitution, and for preserving it. That conviction is undoubtedly not what it once was.

Does it deserve to be? That is our question. Since the framing of the Constitution many waves of thought have washed over our intellectual shores, most of them serious, each claiming to be a progress over earlier thought. The book's table of contents provides a survey of most of the notable ones. Some of them might have been predicted by the Framers; others would probably have surprised them. Some were directly critical of the solution to the political problem provided by the Constitution of the United States; others were not thinking of it, although their views of human nature and politics implicitly made them its critics and opponents. All have been seductive, and all have provided lenses through which Americans look at the world and by means of which they articulate its phenomena.

The authors of this book each proposed to take one of these schools of thought that had particularly interested him or her, to try to make precise what its view of constitutional politics is, and to reflect on whether the Framers' thought can make a convincing response to it. This effort was intended to be an exercise in our own self-awareness, but one that is in conformity with America's most fundamental tradition. We wished, without prejudice, to see what can still rationally be believed of the thought of the Constitution. This means that that thought had to be presented by those of us who knew it best, and then the various schools addressed by the rest. How well the thought of

the Constitution would do in this contest was not presupposed. I suppose the results have been different for different ones of us. But the Constitution has been deepened and freshened for us all in seeing how it meets theoretical challenges unknown to its Framers.

When we first planned this volume, we were keenly aware that the discussion of the really interesting issues concerning our founding documents—whether the Constitution gives sufficient power to the people, whether religion is given a sufficient place to ensure a moral citizenry, and others—had been subordinated to secondary concerns such as the economic interests or the psychological peculiarities of the Framers, their historical situation and its intellectual limits, or their inability to distinguish value judgments from fact judgments. In other words, a new discipline, intellectual history, with newer methods—themselves related more or less consciously to new philosophies—gives priority to new kinds of questions, which prove to be endless. Thus the questions, and the answers, of the Framers—or those of any writer—can never be addressed and begin to be irrelevant, for they are alleged to have been unaware of the real questions. Their texts are thus not paths to be followed but symptoms to be diagnosed. Their arguments are judged to be untrue before being put to the test, as scholars devote themselves to explaining why they were wrong. It was precisely in response to this contempt for the text that we planned this volume. We hoped to demonstrate in deed that there is greater intellectual excitement, as well as greater political responsibility in adopting the perspective of the Framers rather than that of the trends of contemporary scholarship.

But the course of events intellectual and political since our first meeting has made efforts such as this all the more urgent. A new school of thought, derivative from the others, has overwhelmed the humanities during this decade and is making considerable inroads in the social sciences and the law. This approach has appeared to be just the thing for today's radicalism in America, which, in adopting it, has given it a life unwarranted by its intrinsic merits. Its thesis is that writers determine "values" and "world views," that they are

unconsciously motivated by “the will to power,” and that they are the sources of the domination of men by men. There are no theoretical human beings, and there is no objectivity, only commitment and subjectivity. Writers’ apparently rational interpretations of a truly meaningless world provide the foundation for systems of domination and prevent the full flowering of individuals. Writers found legitimacy, and they spawn a race of interpreters or priests who are themselves legitimized by the sacred text they interpret. The focus on texts as the essential cause of political facts reverses the old Marxist relation between infrastructure and superstructure. Writers are conceived of as autonomous and given a new weight in the understanding of things. Of course, their autonomy rests not on their reason but on their irrational, creative unconscious. A new kind of liberating interpreter is conceived to do battle with the priestly interpreter and to destroy his foundation. The priest disappears with the Bible. The new interpreter “deconstructs” the sacred text, showing that its author could not know his own motives, that his text is incoherent and explodes, when pressured by the critic into the chaotic elements lying beneath its smooth rationalized surface. Race, gender, and class are the favorite prejudices of the unconscious ruse in its quest for power.

Texts are the enemies, according to this school, and there is no need to insist on its threat to political tradition that rests on fundamental texts. It was the pride of the Framers that for the first time in history a nation was founded on written documents that all can read and study and that appeal of the reason of each. It is a grave undertaking to undermine the credibility of such a legacy, although the deconstructionists approach it with levity. In a perverse way the deconstructionists agree with the Framers about the importance of their writing, but they insist that the Framers wrote to impose their rich, white male, logocentric (or Eurocentric) selves on the poor, the females, and the nonwhites of the world. One can see why the deconstructionists appeal to certain kinds of extremists. They deny each of the premises of the Framers, especially concerning nature, reason, and concern for the common good. Their influence now extends well beyond the academy into real politics.

Deconstructionism has colored the public discussions about “original intent” as the guide for judges’ interpretation of the Constitution and influenced the terms of the controversy surrounding Robert Bork’s nomination to the Supreme Court. Deconstructionism must be studied, but the texts must be studied first to avoid beginning from parodies of them, parodies that are easy prey for the critics. In their digging, deconstructionists may well discover what they themselves have buried. This is easy to do when objectivity no longer prompts second thoughts.

This is how the American intellectual scene looks. Much greater events occurring outside the United States, however, demonstrate the urgency of our task. Those events are epitomized by the Statue of Liberty erected by the Chinese students in Tiananmen Square. Apparently, after some discussion whether it should be altered to have Chinese features, there was a consensus that I did not make any difference.

I write this at the moment when the terror in China has begun, and we cannot yet know what will become of those courageous young persons. But we do know the justice of their cause, and although there is no assurance that it will ultimately triumph, their oppressors have won the universal execration of mankind. With Marxist ideology a wretched shambles everywhere nobody believes any longer in Communist legitimacy. Everywhere in the Communist world what is wanted is rational liberal democracy that recognizes men’s natural freedom and equality and the rights dependent on them. The people of that world need and want education in democracy, which means study of the philosophy that explains the grounds of democracy and of the constitutions that actualize it. That education is one of the greatest services the democracies can offer to the people who live under Communist tyrannies and long for liberty. The example of the United States is what has impressed them most, and their rulers have been unable to stem the infection. Our example, though, requires explanations, the kind the Founders gave the world. And this is where we are failing: dominant schools in American universities can tell the Chinese students only that they should avoid Eurocentrism, that rationalism has failed, that they

should study non-Western cultures, and that bourgeois liberalism is the most despicable of regimes. However, this is not what they need. They have Deng Xiaoping to deconstruct their Statue of Liberty. We owe them some thing much better.

All of the contributors to this book are, with the exception of Joseph Hamburger, students of, or students of students of Leo Strauss. This great man re-interested us in America by teaching us how to read our country's political texts and demonstrating how wise they are. Suddenly we discovered how much there is at home to attract our best intellectual efforts. This was at a time when almost all of what appeared philosophically attractive engendered contempt for the Framers or what they stood for. From Strauss we learned that high adventure awaits those who wished to confront the *Declaration of Independence*, the Constitution, and *The Federalist*. His example made us ashamed of our smug sense of superiority to them.

Strauss was a refugee from Germany; hence, it was not choice that brought him to the United States. His life had been, and remained dedicated to the question, "What is the reason?" His was an unceasing quest for clarity about ancient and modern rationalism and the various kinds of anti-rationalism or irrationalism. One result of this quest was his rediscovery of the Socratic sense of political philosophy as the beginning point for the understanding of the place or fate of reason in human life. Thus, when he came to America, he discovered that it was most congenial to him. The American regime was friendly to him as Jew and philosopher, and, of course, the protections of these two aspects of his being were related in the rational universality of liberal principles. He had had experience both theoretical and practical, of the German critique of those principles, and he unhesitatingly, unlike many refugees, preferred not the mystifying old cultures, however splendid, but a regime that in its founding faced the issues of reason and revelation. Our origins properly understood are more fundamental than theirs. Strauss began his study of the American regime from its highest claims for itself and cutting through the overgrowth, went unerringly to the Founding thought that informed American reality. And he

studied Lincoln as the authoritative interpreter of the liberal regime in its inevitable crisis over slavery. The United States, perhaps alone among regimes, merited philosophic examination because of its self-conscious attempt to solve the political problem, particularly in its relation to the two crucial elements—religion and philosophy—and because its founding documents were philosophic and derived from the great philosophers. He left this legacy to his students and gave us much to do.